

Exhibit 6

Letter from Judge Almanza dated
June 6, 2017

U.S. Department of Labor

Board of Alien Labor Certification Appeals
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



JUN 9 6 2017

Ms. Yawen Hsiao
651 Ilalo St., MEB 307
Honolulu, HI 96813

Subject: BALCA En Banc Voting Procedures

Dear Ms. Hsiao:

Thank you for your email inquiry to Todd R. Smyth on June 5, 2017. Mr. Smyth has brought it to my attention as I am the Associate Chief Administrative Law Judge ("ALJ") who currently manages the operations of the Board of Alien Labor Certification Appeals ("BALCA" or "Board") under the direction of the Chief ALJ, Stephen R. Henley. Your email indicates that in a telephone call, our receptionist gave you incorrect information about the Board's process for reviewing petitions for en banc review. Please accept my apology on behalf of the Board for this error.

Under the en banc procedure used by the Board at the time of receipt of the petition for en banc review in *University of Hawai'i*, 2012-PER-02131, when the Board received a petition for en banc review, the Board's paralegal, Carla Thomas, used an online application to randomly select eight BALCA ALJs to consider the petition. The Chief ALJ, as Chair of BALCA, reviewed all en banc petitions. Thus, there was a nine ALJ panel who considered the petition. As you can see from the documents sent to you with the FOIA response, the ALJs who considered the petition in *University of Hawai'i*, 2012-PER-02131, were Chief ALJ Henley, District Chief ALJ Geraghty, and ALJs Price, Barto, Kennington, Romero, Calianos, Rosen and Rosenow. Under the voting procedure, the petition would be automatically denied at the end of the voting period unless a majority of the en banc panel voted to grant the petition. In the *University of Hawai'i* matter, no ALJs voted to grant en banc review. The Order Denying En Banc Review was issued by Mr. Smyth as the Secretary to the Board. Mr. Smyth's role in issuing the Order, however, was ministerial; he played no part in deciding whether to grant or deny the petition.

You are correct that the Board's procedure for considering en banc petitions has changed over the years, and that at one time, only five ALJs considered en banc petitions and a vote sheet was used to record a "yes" or "no" vote. You are also correct that the Board's internal procedures for voting on en banc petitions are not published.

I again apologize for the incorrect information you were given by our receptionist. I will address this matter with her so that a similar incident does not happen again.

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Additionally, I would like to note that the Order Denying En Banc Review in your case did not list the ALJs who reviewed the petition. The Board's staff has been directed to list the reviewing ALJs in such documents in the future.

As to the other parts of your email to Mr. Smyth about the continuation of your FOIA request, I will defer to the FOIA officers for a response.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul R. Almanza", with a long, sweeping horizontal stroke extending to the right.

Paul R. Almanza
Associate Chief Administrative Law Judge for
Longshore and Immigration